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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,713	03/23/2004	Yuko Nishikawa	81231 7114	2662
37123	7590	11/26/2008	EXAMINER	
FITCH EVEN TABIN & FLANNERY 120 SOUTH LASALLE SUITE 1600 CHICAGO, IL 60603				TAYLOR, JOSHUA D
ART UNIT		PAPER NUMBER		
2426				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/806,713	NISHIKAWA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	JOSHUA TAYLOR	2426	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 October 2008.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-13 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 23 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/25/2008</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments, filed 10/29/2008, with respect to claims 1-13 have been considered but are moot in view of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. (Pub. No.: US 2003/0167466) in view of Florin (US Pat. 5,583,560), and further in view of Nikolovska (Pat. No.: US 6,505,194).

Regarding claim 1, Nakamura discloses **a method comprising: providing access to a plurality of characterizing descriptors for each of a plurality of discrete selectable items of audio/video content** (Nakamura, paragraphs [0063-0065] i.e., accepting instruction for display EPG data); **providing a program guide by simultaneously displaying a plurality of the characterizing descriptors for each of a plurality of the discrete selectable items using a browsing and selection interface that bears at least some of the characterizing descriptors and wherein three spatial dimensions for the browsing and selection interface are simultaneously displayed, such that the browsing and selection interface is depicted as a plurality of three dimensional object** (Nakamura, Fig. 3, paragraphs [0025]-[0029], [0063]-

[0064]). Nakamura discloses having multiple 3-dimensional cylindrical displays displaying program guide information. Nakamura does not disclose **wherein each of the plurality of three dimensional objects corresponds to a different time and displays a plurality of characterizing descriptors corresponding to that time.** However, in analogous art, Florin does (Fig. 12, column 15, lines 12-20). Florin discloses that a program guide can be configured so as to display only programs from a specific time period, in order for users to be able to compare all the programs that are currently on, or will be on at a certain time in the future (Florin, Fig. 12, column 15, lines 12-20). If one were to turn the plurality of vertical cylinders of Nakamura's Fig. 15 on their side, as would have been an obvious matter of design choice to one of ordinary skill in the art at the time of the invention, one would have a plurality of horizontal cylinders, and there would be a plurality of different times represented. From this standpoint, the only difference between Nakamura and applicant is that each cylinder does not represent a different time period. However, by looking at Nakamura, Fig. 2, one can see that the channel columns are broken up into time segments. If, referring to Nakamura, Fig. 2, one were to follow the broken line that runs under A2, B1, C1, '6', D2, E1 and F1, it can be seen that this line, which can be seen in the same manner on the cylinder of Fig. 3, represents a cylinder denoting a time period. Combing this view of Nakamura with the teaching of Florin, who further teaches the benefit of allowing a program guide to be divided using a time period, it would be obvious to one of ordinary skill in the art at the time of the invention, and it would yield predictable results, to modify Nakamura by taking these pre-existing time-based cylinders and separating them slightly so that the different time periods were more obvious to the viewer.

Neither Nakamura nor Florin discloses independently scrolling through the plurality of three dimensional objects. However, in analogous art, Nikolovska teaches **wherein each of the plurality of three dimensional objects responding to user input by scrolling a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items wherein the characterizing descriptors displayed on each of the plurality of three dimensional objects may be scrolled independently of the characterizing descriptors displayed on the other three dimensional objects** (Fig. 4-9, column 8, lines 21-49). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the three dimensional display as taught by Nakamura and Florin to include the ability to move individual sections of the display separately. This would have produced predictable and desirable results, in that it can be easier for a user to focus on one element of a display at a time, without the rest of the display changing, as taught by Nikolovska, and thus if each time cylinder could be moved independently, it would allow the user to focus on a specific time period, as taught by Florin, and more easily choose a program of interest in a desirable time slot.

Regarding claim 2, **the method of claim 1** is rejected as stated above, and Nakamura further discloses **wherein each of the plurality of three dimensional objects corresponds to a three dimensional cylinder** (Fig. 15, paragraphs [0011], [0063]-[0064]).

Regarding claim 3, **the method of claim 1** is rejected as stated above, and Nakamura further discloses **wherein the plurality of discrete selectable items of audio/video content are embodied in a plurality of media** (paragraph [0110]).

Regarding claims 4, **the method of claim 1** is rejected as stated above, and Nakamura discloses **further comprising: responding to a remote control device by scrolling a display**

**of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items (paragraphs [0105]-[0106]).**

Regarding claims 5, **the method of claim 4** is rejected as stated above, and Nakamura discloses **further comprising: responding to a remote control device by altering the display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items on a page basis** (paragraphs [0105]-[0106]).

Regarding claims 6, **the method of claim 1** is rejected as stated above, and Nakamura discloses **further comprising: responding to a remote control device by signaling user selection of a particular one of the discrete selectable items of audio/video content** (paragraphs [0105]-[0106]).

Regarding claims 7, **the method of claim 6** is rejected as stated above, and Nakamura discloses **further comprising: sending a signal indicating user selection of the particular one of the plurality of discrete selectable items of audio/video content** (paragraphs [0105]-[0106]).

Regarding claim 9, Nakamura discloses **an interactive program guide system comprising: characterizing descriptors for each of a plurality of discrete selectable items of audio/video content; control circuitry that displays a plurality of the characterizing descriptors using a browsing and selection interface that bears at least some of the characterizing descriptors and wherein three spatial dimensions for the browsing and selection interface are simultaneously displayed** (Nakamura, paragraph [0008]), **such that the browsing and selection interface is depicted as a plurality of three dimensional objects** (Nakamura, Fig. 3, paragraphs [0025]-[0029], [0063]-[0064]). Nakamura discloses having

multiple 3-dimensional cylindrical displays displaying program guide information. Nakamura does not disclose **wherein each of the plurality of three dimensional objects corresponds to a different time and displays a plurality of characterizing descriptors corresponding to that time** However, in analogous art, Florin does (Fig. 12, column 15, lines 12-20). Florin discloses that a program guide can be configured so as to display only programs from a specific time period, in order for users to be able to compare all the programs that are currently on, or will be on at a certain time in the future (Florin, Fig. 12, column 15, lines 12-20). If one were to turn the plurality of vertical cylinders of Nakamura's Fig. 15 on their side, as would have been an obvious matter of design choice to one of ordinary skill in the art at the time of the invention, one would have a plurality of horizontal cylinders, and there would be a plurality of different times represented. From this standpoint, the only difference between Nakamura and applicant is that each cylinder does not represent a different time period. However, by looking at Nakamura, Fig. 2, one can see that the channel columns are broken up into time segments. If, referring to Nakamura, Fig. 2, one were to follow the broken line that runs under A2, B1, C1, '6', D2, E1 and F1, it can be seen that this line, which can be seen in the same manner on the cylinder of Fig. 3, represents a cylinder denoting a time period. Combing this view of Nakamura with the teaching of Florin, who further teaches the benefit of allowing a program guide to be divided using a time period, it would be obvious to one of ordinary skill in the art at the time of the invention, and it would yield predictable results, to modify Nakamura by taking these pre-existing time-based cylinders and separating them slightly so that the different time periods were more obvious to the viewer.

Neither Nakamura nor Florin discloses independently scrolling through the plurality of three dimensional objects. However, in analogous art, Nikolovska teaches **wherein the control circuitry is operably responsive to user input to scroll the display of the plurality of the characterizing descriptors, and wherein the characterizing descriptors displayed on each of the plurality of three dimensional objects may be scrolled independently of the characterizing descriptors displayed on the other three dimensional objects** (Fig. 4-9, column 8, lines 21-49). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the three dimensional display as taught by Nakamura and Florin to include the ability to move individual sections of the display separately. This would have produced predictable and desirable results, in that it can be easier for a user to focus on one element of a display at a time, without the rest of the display changing, as taught by Nikolovska, and thus if each time cylinder could be moved independently, it would allow the user to focus on a specific time period, as taught by Florin, and more easily choose a program of interest in a desirable time slot.

Regarding claim 10, **the interactive program guide system of claim 9** is rejected as stated above, and Nakamura further discloses **wherein each of the plurality of three dimensional objects corresponds to a three dimensional cylinder** (Fig. 15, paragraphs [0025]-[0029], [0063]-[0064]).

Regarding claim 11, **the interactive program guide system of claim 9** is rejected as stated above, and Nakamura further discloses **wherein the plurality of discrete selectable items of audio/video content are embodied in a plurality of media** (Fig. 3, paragraphs [0025]-[0029], [0063]-[0064]).

Regarding claim 12, **the interactive program guide system of claim 9** is rejected as stated above, and Nakamura discloses **further comprising: a remote control device; and wherein the control circuitry is operably responsive to the remote control device** (paragraphs [0006]-[0010] and [0105]-[0106]).

Claims 8 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable by Nakamura et al. (US Pub. No. 2003/0167466) in view of Florin (US Pat. 5,583,560) and Nikolovska (Pat. No.: US 6,505,194) as applied to claims 1 and 9 above respectively, and further in view of Sai et al. (US Pat. 6,822,661).

Regarding claim 8, the combined teachings of Nakamura, Florin and Nikolovska disclose the method of claim 1, but do not disclose further comprising **using a jog dial to do at least one of: scrolling a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items; paging a display of the plurality of the characterizing descriptors for each of a plurality of the discrete selectable items.** However, Sai et al does (column 5, lines 11-14). Sai et al. teach that a jog dial could be used in place of directional buttons. Therefore, one skilled in the art would have found it obvious to use a jog dial as an alternative to directional buttons.

Claim 13 is rejected on the same grounds as claim 8 above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA TAYLOR whose telephone number is (571)270-3755. The examiner can normally be reached on 8am-5pm, M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Josh Taylor/

Examiner, Art Unit 2426

/Vivek Srivastava/

Supervisory Patent Examiner, Art Unit 2426